

Notes from CALFED HCP Public Scoping Meetings

REDDING

QUESTIONS

Can an HCP cover federal agencies? If it can't, will there be no assurances to federal water users?

Who will be the lead agency with respect to federal agencies with differing jurisdictions?

Define "extraordinary circumstances" and "economic compatibility".

Why "no surprises" for water users so early in the process?

What is the geographic scope of the HCP? Does it include significant habitats above dams?

How will individual projects within the geographic scope of the HCP determine the range of mitigation, limits on geographic scope of mitigation, and priority for in-kind onsite mitigation?

Will HCP address operational changes (e.g., reservoir levels)?

How is government assurance of funding provided? How certain is it?

How do HCPs balance costs to the north Valley (e.g., higher risk of flooding)?

What is the CALFED Bay-Delta Program (CALFED) doing with regard to San Joaquin River mitigation?

Why doesn't the California Department of Fish and Game address the problems on the mainstem of San Joaquin River?

COMMENTS

Commercial Fishing

The Section 7 process is adaptive and does not provide "no surprises".

The HCP should be based on science, not politics.

Adaptive management is necessary because of scientific uncertainty. Causes of mortality are uncertain enough to quantify. Information is inadequate to provide "no surprises".

Extraordinary circumstances place burden on fish.

The HCP is premature; too great a level of uncertainty for "no surprises".

There is a fundamental inconsistency between a "no surprises" policy and adaptive management.

Tehama Fly Fishers

Concern over Delta outflows (west). Needs to be addressed before developing HCP.

Regional Council of Rural Counties (RCRC)

RCRC has no formal policy position yet.

Clarify role of federal projects. Coordinated Operating Agreement makes the California Department of Water Resources (DWR) a federal entity.

Entire watershed, Bay and ocean to the Farallon Islands should be within the geographic scope to avoid ecosystem fragmentation.

Address "no surprises" above dam including the Federal Energy Regulatory Commission licensees, U.S. Forest Service, and U.S. Bureau of Land Management. Examine logging, mining, and grazing.

Concern over species scope. How will Trinity River water be addressed?

Will the HCP allocate water? If so, the HCP must be subject to area-of-origin rights and protections.

CALFED should consider removing Delta pumps.

Is Friant water-users area included in the HCP? Will it be eligible for "no surprises"?

Will the HCP include urban water-use efficiency; SWP service area water-use efficiency?

How long will "no surprises" last? CALFED needs to address temporal effects.

How will government funding be ensured?

The HCP's "no surprises" is inconsistent with adaptive management.

There is inadequate information to provide "no surprises" assurances.

Nor-Cal Guides and Sportsmen's Association

Supports previous speakers.

Be equitable: match guarantees for water users with guarantees for species.

Be specific: the HCP should cover a predetermined species list. Limit "no surprises" in time, type, and location.

Provide consequences: to be used if "take" goes beyond specified limits.

Tehama-Colusa Canal Authority

How long will the HCP and Natural Communities Conservation Plan (NCCP) work together?
Will state-listed species be included?

Inconsistent "no surprises" policies?

What happens to unforeseen species and species not included in the HCP/NCCP?

Would the HCP assume an NCCP would be prepared?

Is the HCP approved by Federal agencies and the NCCP approved by State agencies?

Will the HCP apply to early implementation projects?

SACRAMENTO

QUESTIONS

Is salt water intrusion included in water quality program? Can agricultural land be flooded with salt water in order to create habitat that meets federal goals?

What is the difference between an HCP and a NCCP?

Clarify DFG authority to require other state agencies and private parties to undertake certain actions.

How will federal agencies and their customers or licensees be included in HCP?

Will there be integration with local HCPs?

Will HCP address all species of concern listed in ERPP?

Does no net loss of habitat mean a ratification of the status quo?

Is CALFED planning to "enhance" habitats? If so, will lower or junior appropriators or other users be a source for this water? Are San Joaquin River water users rights being addressed by CALFED?

Is HCP mitigation for take authorization or mitigation for species recovery plan?

Will CALFED process produce a single document or multiple documents?

COMMENTS

Regional Council of Rural Counties

Concerned that HCP will be geographically limited to lower watershed. HCP should address the entire Bay-Delta watershed.

Potential problems with HCP need to be remedied as part of assurances. A tool needs to be provided that will accommodate for HCP shortcomings. As a component of adaptive management, look to financial models to provide self-insurance.

Kern County/State Water Contractors

Agree rescoping process is necessary.

Adaptive management is critical for ecosystem restoration. Three suggested HCP options don't adequately provide for adaptive management. Will provide further options in writing. Adaptive management needs to allow for adjustments that will also be covered by assurances.

Federal users need assurances as well.

Sierra Club

Concern that HCP confuses already complicated planning effort.

Concern that problems inherent in other HCPs would be manifest in this process:

- insufficient public input
- don't require recovery of species
- unable to respond to changing biological information
- regulatory assurances must be comparable to restoration actions
- assurances at odds with adaptive management

Public participation and independent scientific review is essential if process proceeds.

Not certain that it is appropriate for state agencies to be permittee.

ESA protections can be provided outside HCP process.

Lowell Landowski

Concern that citizens/local interests would not be part of the HCP development process.

Geographic scope too limited; offshore influences should be examined.

Concern over Delta outflow.

Concern no scoping meetings scheduled in the Delta area.

UC Davis Sustainable Agriculture

Middle path marketing approach: farmers receive credit for positive actions.

Landscape ecology difficult to subject to standards, but CALFED should pursue.

Environmental Council of Sacramento

Participant in two other HCP processes. Despite only two species being addressed in Natomas HCP, process is very difficult. Concern over scope of CALFED proposed HCP. Might occur at expense of habitat and species.

HCP will be too big; mistake.

IRVINE

COMMENTS

Orange County Municipal Water District

Prefer HCP option 2 (Phased HCP with Conditioned Permit) or option 3 (Phased HCP with Permit Amendments). Would like greater detail on these options.

Concern that existing operations be included in this HCP.

Phased HCP should not require starting over with each new issue (species) addressed. No surprises is important element.

Assurances should provide certainty into the future. System must be flexible enough to address changing information and circumstances. "Shelf-life" should be 50-100 years.

Los Angeles Metropolitan Water District

Beginning HCP now is appropriate and important for ecosystem restoration implementation.

HCP may be important assurances tool.

Operating criteria should be addressed in the HCP.

HCP options must include adaptive management explicitly.

State and Federal contractors and direct diverters should receive comparable assurances. Should link Sections 7 & 10 processes.

Comprehensive permitting should be explored in order to provide assurances to all parties.

Sierra Club

Public involvement important in conservation planning.

Concern that HCPs compromise species viability.

Concern that geographic scope is too large and therefore process will be too complex.

HCP needs to be based on science.

HCP needs to include:

- monitoring
- enforcement
- adequate funding
- standards to judge adequacy of plan

No surprises currently too one-sided in favor of developers. Needs an equilibrium between development and species.

Not in favor of using an HCP in the CALFED process.

QUESTIONS

What is status of DFG take authorization as it relates to species not presently listed but included in the HCP? What happens with future listings?

LOS BANOS

QUESTIONS

If an important element of the CALFED Program is to improve the environment, why is so much effort being focused on Endangered Species Act permits?

Why is an NCCP being prepared if an HCP covers non-federal actions?

COMMENTS

San Luis/Delta Mendota Water Authority

Supports the inclusion of an HCP in the CALFED Program.

Considering the three HCP options described in the presentation, prefers the first option because it presents a clear cut approach.

The HCP should include adaptive management.

Assurances need to be provided to Federal contractors.

BERKELEY

COMMENTS

Santa Clara Valley Water District

Supports an ecosystem based program.

CALFED program should include a wide range of HCP/NCCP alternatives.

Comprehensive assurances need to be provided to all water users.

Save San Francisco Bay Association

Concerned about issuance of incidental take permit for entire CALFED program, which covers a

large geographic area and includes a wide variety of actions.

Concerned about the timing of the HCP development process. Feels that there are too many unknowns, including actions and mitigation measures, to develop a satisfactory HCP at this time.

Concerned about the level of attention being placed on an HCP when it is only one element of a much larger group of potential assurances.

No surprises is contradictory to adaptive management.

HCP is only appropriate at a project specific level, when project specific impacts can be assessed. Incidental take permit should not be issued prior to project specific evaluations.

San Luis/Delta Mendota Water Authority

Supports expanding EIS/EIR to include possible HCP.

Three types of HCPs discussed do not clearly address adaptive management. Adaptive management should be included in any type of HCP developed.

Assurances need to be provided to federal water contractors.

East Bay Municipal Utility District

Assurances are necessary to maintain broad support for the CALFED program.

Assurances, including those provided through an HCP, allow for long-term planning.

No surprises is a very important aspect of the program and should be extended to federal water contractors; disparate treatment of water users is problematic.

Adaptive management is a necessary tool and needs to be included in the HCP.

Golden Gate Audubon Society

Water is the reason that species are in decline.

Conflicts exist between no surprises and adaptive management. Surprises are inherent in an adaptive management process.

HCP should have a broad geographic scope and address the entire San Francisco Bay in order to benefit more species.

HCP should have trigger mechanisms that lead to enforcement actions.

HCP must have options to provide more water to the Bay ecosystem if necessary.

U.S. Fish and Wildlife Service should have ultimate authority on HCP related decisions.

Goal of HCP must be restoration and not simply survival/status quo.

HCP should consider non-structural, non-facility alternatives. Too much focus is placed on storage and conveyance.

Process must allow for future additional mitigation. Water users should pay for additional mitigation, not taxpayers.

League of Women Voters

It is too early to consider an HCP. Assurances package should be considered as a whole and at a later time.

Currently there is no HCP model with a scope as broad as the one currently being considered. A programmatic HCP will be problematic.

Concerned that no surprises is intended for water users and not for the ecosystem.

There are too many unknowns in the CALFED program to develop an HCP.

Contra Costa Water District

Supports expanding EIS/EIR to include possible HCP.

Adaptive management should be included in HCP.

Assurances need to be provided to federal water contractors.

Marin Audubon Society

HCP is premature. Not enough information to warrant the development of an HCP.

Inclusion of an HCP at this time appears to be contrary to NEPA. Project needs to be more clearly defined.

HCP is only necessary if a project's impacts are known. HCP should not be pursued until the programmatic EIS/EIR is completed.

Concerned that developing an HCP of this magnitude would set a bad precedent.

Sierra Club

Commentor referred to written comments being submitted.

Public Trust Project

Water resources are public trust resources. No surprises policy is inconsistent with public trust responsibilities.

HCP scoping must acknowledge need to address public trust assets.

State has a greater responsibility for public trust assets than for the concerns of federal water contractors.

Mount Diablo Audubon Society

HCP should not be developed at this time.

HCPs in southern California are much less complex than the one currently being considered for CALFED yet were very expensive and time consuming.

No surprises policy is needed for fish and wildlife species.

Concerned about the expenses associated with developing an HCP.

Citizen

HCP is not the best form of assurance.

A balance of power is the best form of assurance, rather than a guaranteed permit.

Need protection for species that may become endangered/listed in the future.

QUESTIONS

Will HCP and no surprises apply to streamflow decisions/recommendations made by CALFED?
How will that be integrated with water rights decisions?

How will no surprises policy apply to flows?

What is the regulatory mechanism that will allow flows to be altered if deemed necessary through adaptive management process?

What public interest is served by the state trustee agencies through the CALFED program?

What interest is served by not evaluating the use of an HCP?

Who will enforce the requirements of the HCP? Will it be the USFWS?

How will enforcement be assured?

Has the decision to do an HCP already been made?

What types of trigger mechanisms for enforcement are envisioned?

What is the USFWS's current thoughts on extending the no surprises policy to the U.S. Bureau of Reclamation/CVP water contractors?

Will there be scoping for other elements of the assurances program?

Were these public scoping meetings on the HCP legally necessary?

With regard to timing, how will the decision on a preferred alternative correlate with a decision on the inclusion of an HCP?

COMMENTS MADE DURING QUESTION PERIOD

Need new model of enforcement. Specific enforcement actions must be outlined.

Original HCP framework probably never anticipated an HCP the magnitude of that being considered by CALFED. If an HCP is used in the CALFED program it should be designed to match the program and not be based on the existing HCP process.